

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Siamak Naghian
Title: SIGNAL PROPAGATION DELAY ROUTING
Appl. No.: 10/526,565
Filing Date: 04/05/2005
Examiner: Pablo N. Tran
Art Unit: 2618
Confirmation 8011
Number:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

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Sir:

In accordance with the **Pre-Appeal Brief Conference Pilot Program**, announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal and the required Notice of Appeal fee. This communication is responsive to the Final Office Action dated July 12, 2010, concerning the above-referenced patent application. Accordingly, this pre-appeal brief is timely filed.

I. Claims Rejections Under 35 U.S.C. § 103

A. The combination of Chen and Larson fails to teach the claimed “calculating a propagation delay between the first intermediate node and the second intermediate node.”

Claim 1 recites in part: “calculating a propagation delay between the first intermediate node and the second intermediate node, wherein the propagation delay comprises a difference

between the second time stamp and the third time stamp.” The Examiner acknowledges that Chen does not explicitly disclose a “method of timestamp of hopping one node to another node.” Applicant agrees. In the Final Office Action the Examiner asserted that Figures 5a, 5b, 5c, and 6 as well as Col. 1, l. 60 – Col. 2, l. 39 and Col. 2, l. 46 – Col. 4, l. 28 of Larson discloses the recited portion of Claim 1 above. In the Advisory Action, the Examiner asserted that Larson teaches “measuring the inter-node (intermediate nodes) transmission time” at col. 3, lines 27-31. Applicant respectfully disagrees that Larson teaches “calculating a propagation delay between the first intermediate node and the second intermediate node.” Larson describes its invention as:

According to this invention, the process of measuring the signal transmission delay through a transmission path involves transmitting across the path in one direction a first signal indicating the time of its transmittal and, in response to receipt of the first signal, transmitting across the path in the other direction a second signal indicating significantly the time of transmittal of the first signal. The round-trip signal transmission delay is then determined as the difference between the time of transmittal of the first signal and the time of receipt of the second signal.

(Col. 2, ll. 48 - 58.) Col. 3, ll. 3 - 15 continues to describe the Larson invention and provides:

At the first interface, transmitting apparatus transmits through the path a first signal that indicates the time of its transmittal. At the second interface, in response to receiving the first signal, transmitting apparatus transmits through the path a second signal that indicates the time of transmittal of the first signal. Apparatus at the first interface responds to receipt of the second signal and determines the difference between the time of transmittal of the first signal and the time of receipt of the second signal to obtain the round-trip transmission delay. Half of the round-trip delay is then taken as an approximation of the one-way signal transmission delay through the path.

Thus, Larson discloses sending a first signal from a first interface, the source interface, that contains a timestamp to a second interface, the destination interface. The destination interface responds to the signal, by transmitting a second signal that contains the timestamp of the first signal. Upon receipt of the second signal at the source interface, the

source interface subtracts the time that the first signal was transmitted, which is stored in the second signal, from the time the second signal was received. Thus, the source interface calculates the round-trip time of a signal between the source and the destination. **No delay or transmission time is calculated for the signal between any intermediate nodes.** Applicant submits that **the round-trip time between a source and a destination interface**, as described by Larsen, is not the same as “calculating a propagation delay between the first intermediate node and the second intermediate node.”

For at least the reasons discussed above, Applicant respectfully requests withdrawal of the rejection of independent Claims 1, 21, and 31. In addition, Applicant respectfully requests withdrawal of the rejection for the remaining dependent claims, each of which depends upon one of the independent claims.

B. The combination of Chen and Larson fails to teach “transmitting a second message from the destination node to the source node ... along the plurality of paths.”

Claim 2 in part recites “**transmitting a second message** from the destination node to the source node ... **along the plurality of paths.**” (Emphasis added). **In the Final Office Action, the Examiner does not point to any section of Chen or Larson as disclosing this feature.** In the Advisory Action, the Examiner asserts that “Chen discloses such step of sending a message back to the source node (see. Col. 10/ln. 50).” Applicant submits that neither Chen nor Larson, alone or in combination, teach each and every limitation of Claim 2.

Larson is directed toward “measuring the signal transmission delay through a transmission path.” The transmission path is established during call setup. *See, e.g.*, Col. 8, ll. 58 - 62. As such, Larson “utilize[es] a signal that **must** pass end-to-end and then back **over the same communication path**” (emphasis added). Applicant submits that requiring the path from the destination to the source be the same communication path from the source to the destination is not the same as “transmitting a second message from the destination node to the source node ... along the plurality of paths.”

Applicant further submits that Chen fails to teach or suggest “transmitting a second message from the destination node to the source node ... along the plurality of paths.”

Figure 12C of Chen is provided in its entirety below:

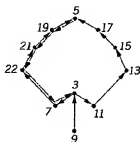


FIG. 12C

Figure 12C illustrates “node 3 transmitt[ing] several path discovery packets to several neighbors who are closest to the destination Node 5.” See Col. 9, l. 67 - Col. 10, l. 2. “The destination node 5 then transmits a ‘path update’ packet back to the first node.” See Col. 10, ll. 3 - 5. As shown in 12C, no message is sent from destination node 5 that follows a path through nodes 11, 13, 15, or 17. Applicant submits that sending a path update packet back to the first node over only a single path is not the same as “transmitting a second message from the destination node to the source node ... along the plurality of paths.” Accordingly, Applicant submits that the combination of Chen and Larson fails to teach, suggest, or disclose the claimed feature of “**transmitting a second message** from the destination node to the source node ... **along the plurality of paths.**” (Emphasis added).

For at least the reasons discussed above, Applicant respectfully requests withdrawal of the rejection of Claim 2.

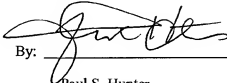
C. The Examiner has not provided a prima facie case of obviousness for Claims 3-5, 8-11, 13-15, 19, 20, 23-25, 27-29, 32, 35, and 36.

On page 2 of the Final Office Action, the Examiner rejected Claims 2 - 5, 8 - 11, 13 - 15, 19, 20, 23 - 25, 27 - 29, 32, and 35 - 36 as allegedly being obvious in view of Chen and Larson. Applicant submits that the Examiner failed to establish a *prima facie* case of obviousness for these claims in the Final Office. In the Response to the Final Office Action,

Applicant noted this deficiency and as an illustrative example noted Claim 2. In the Advisory Action, while the Applicant disagrees with the Examiner, the Examiner provided grounds for Claim 2, but again failed to provide any basis or support of the rejection of Claims 3-5, 8-11, 13-15, 19, 20, 23-25, 27-29, 32, 35, and 36.

On pages 2 and 3 of the Final Office Action, the Examiner asserted that the features of independent Claims 1, 21, and 31 are obvious in light of Chen and Larson. The Examiner, however, provided no support for the obviousness rejection for any of the dependent claims 2 - 5, 8 - 11, 13 - 15, 19 - 20, 23 - 25, 27 - 29, 32, and 35 - 36. Although the Applicant disagrees with the Examiner, in the Advisory Action, the Examiner did provide a basis for the rejection of Claim 2. **The Examiner, however, failed to address Claims 3-5, 8-11, 13-15, 19, 20, 23-25, 27-29, 32, 35, and 36.** The Office Action and the Advisory Action are silent as to where either Chen or Larson supposedly disclose the features of Claims 3 - 5, 8 - 11, 13 - 15, 19 - 20, 23-25, 27-29, 32, and 35 - 36. Because the Examiner has failed to provide support for why the features of Claims 3 - 5, 8 - 11, 13 - 15, 19 - 20, 23 - 25, 27-29, 32, and 35 - 36 would have been obvious to one skilled in the art just prior to when the invention was made, Applicant respectfully requests withdrawal of the rejection for Claims 3 - 5, 8 - 11, 13 - 15, 19 - 20, 23 - 25, 27 - 29, 32, and 35 - 36.

Respectfully submitted,


By: _____

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